## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF DELAWARE

Anthony Lewis Ware,	<b>)</b>
Plaintiff,	) ) Civil Action
v.	) ) File No. 05-362
Ball Plastic Container Corp.,	)
Defendant.	ý

## **DEFENDANT'S MOTION TO DISMISS**

COMES NOW Defendant Ball Plastic Container Corp. ("Defendant" or "Ball"), by and through undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(2) and (3), respectfully move this Court to dismiss *pro se* Plaintiff Anthony Lewis Ware's ("Plaintiff") Complaint in the above-styled action. Ball contemporaneously submits a Brief in Support of its Motion to Dismiss and a proposed Order for the Court's consideration.

WHEREFORE Ball respectfully requests that this Court grant the instant motion, dismiss Plaintiff's Complaint, and grant any further relief the Court deems appropriate.

Respectfully submitted,

TYBOUT, REDFEARN & PELL

Of Counsel

Bradley E. Strawn, Esquire Littler Mendelson, PC Three Parkway, Suite 1400 1601 Cherry Street Philadelphia, PA 19102 /s/ David G. Culley

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Attorney for Defendant Ball Plastic Corp.

Dated: December 2, 2005

## **CERTIFICATE OF SERVICE**

I, DAVID G. CULLEY, hereby certify that on this 2<sup>nd</sup> day of December, 2005, I electronically filed the attached Defendant's Motion to Dismiss with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Anthony Lewis Ware 2412 N. Monroe St. Wilmington, DE 19802

I hereby certify that on this 2<sup>nd</sup> day of December, 2005, I have mailed by United States Postal Service, the Appendix to Defendant Ball Plastic Container Corp.'s Motion to Dismiss to the following participants:

Anthony Lewis Ware 2412 N. Monroe St. Wilmington, DE 19802

TYBOUT, REDFEARN & PELL

/s/ David G. Culley

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